

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Division of Forestry and Wildlife  
Honolulu, Hawaii 96813

January 13, 2011

Chairperson and Members  
Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

Land Board Members:

**SUBJECT: REQUEST APPROVAL TO INITIATE THE COMPETITIVE SEALED PROPOSAL PROCESS AND AUTHORIZE THE CHAIRPERSON TO ISSUE A REQUEST FOR PROPOSALS AND AWARD AND EXECUTE A CONTRACT FOR THE CONSTRUCTION OF 18 MILES OF UNGULATE PROOF FENCE ON MAUNA KEA TO PROTECT PALILA CRITICAL HABITAT**

This Board Submittal requests approval to issue a Request for Proposals (RFP) under the competitive sealed proposal process and authorizes the Chairperson to issue the RFP and award and execute a contract for the construction of 18 miles of ungulate proof fence on Mauna Kea to protect Palila Critical Habitat.

**BACKGROUND**

**THE PALILA**

The Palila is a finch-billed Hawaiian honeycreeper currently restricted to Mauna Kea. Loss and degradation of māmane forests, mostly by non-native ungulates, has resulted in a dramatic range contraction. Today, most (>95%) of the Palila population occurs on the southwestern slopes of Mauna Kea in an area of less than 25 square miles. Population estimates have varied considerable over the past 30 years ranging from about 1,200 to 6,800 birds. Recent estimates indicated a statistically significant decline in the population occurred from 2003 to 2008, and population estimates for 2009 (1,867) and 2010 (1,186) continue to decline from the 2008 estimate (1,952).

The species was listed as endangered by the U.S. Fish and Wildlife Service (USFWS) in 1967 and the State of Hawai'i in 1982 (USFWS 2006). Critical habitat for the Palila (60,188 ac) was designated on August 8, 1977, and includes all land area on Mauna Kea from approximately 6,500 to 10,075 feet in elevation, mostly in the Mauna Kea Forest Reserve. Federal court rulings in 1979, 1987, and 1998 mandated the removal of all sheep and goats from critical habitat. The Division of Forestry and Wildlife (DOFAW) has conducted periodic removal of sheep via aerial shooting since July 1987, and maintains a liberal hunting policy across critical habitat.

## FUNDING AND PROPOSED MANAGEMENT

In August of 2008, the USFWS provided DOFAW with \$900,000 to initiate management to protect Palila critical habitat. On January 21, 2009 a meeting with partners determined that the most effective strategy to protect the Palila would be to fence almost all Critical Habitat, followed by the removal of all sheep and goats. Based on this, a plan was drafted that outlined the fence alignment, the sequence of fence construction, the fence specifications and required materials, and the criteria for selecting a contractor to construct a 59 mile fence that would enclose 94% of critical habitat. On October 29, 2009 this plan was approved by the USFWS and DOFAW representatives. An RFP was drafted and posted on the state procurement office website from May 18, 2010 through June 15, 2010. Construction of this segment was initiated in late November 2010 at a cost of \$440,600. In July 2010, the USFWS provided an additional \$1,347,000 for further fence construction. The first segment will be completed in the next several months and this Board Submittal requests approval to issue an RFP under the competitive sealed proposal process and authorizes the Chairperson to award and execute a contract for the construction of the next segment of fence as per the above mentioned plan.

Please see the attached Declaration of Exemption from the preparation of an environmental assessment under the authority of Chapter 343, HRS and Chapter 11-200, HAR. This exemption falls under Exempt Item Number: #3, repair and maintenance of existing DOFAW program area fences.

## DISCUSSION

Based on the requirements and special conditions of this procurement, DOFAW recommends that a competitive sealed proposal process be used for source selection. Such an approach will be the most advantageous procurement process for the solicitation because:

- 1) The primary consideration for the determination of the awards for this RFP is not price.
- 2) The contract will be other than a fixed-type price.
- 3) Oral or written discussion may need to be conducted with the Applicants concerning technical and price aspects of their proposals.
- 4) Applicants may need the opportunity to revise their proposals, including price.
- 5) Awards need to be based on a comparative evaluation as stated in the request for proposal of differing price, quality, services and other contractual factors in order to determine the most advantageous offering to the State.

Pursuant to HAR 3-122-43, a determination by the Department procurement officer must be made for the use of the competitive sealed proposal process over the competitive sealed bidding process when the competitive sealed bidding process is neither practicable nor advantageous to the State. Additionally pursuant to HAR § 3-122-45, a determination must be made by the procurement officer that an evaluation committee, selected in writing by the procurement officer, shall evaluate the competitive sealed proposals. The Division recommends the use of an evaluation committee because it will promote an objective review, evaluation, and ranking of proposals and allow for the selection of the most qualified proposal. Further the evaluation committee must consist of at least three government employees with sufficient qualification in the area of the goods or services to be procured; DOFAW recommends the following

individuals:

- Nick Agorastos, Big Island Natural Area Reserve Specialist, DOFAW (State)
- Lisa Ferentinos, WPP planner, DOFAW (State)
- David Leonard, Wildlife Biologist, DOFAW (State)
- Jay Nelson, Wildlife Biologist, USFWS (Federal)

To expedite a contract for this procurement, DOFAW requests that the Board delegate authority to the Chairperson to issue the RFP and award and execute the contract for goods and services based on the recommendations of the evaluation committee and other terms and conditions as may be prescribed by the Chairperson to best serve the interest of the State. Additionally, should any of the committee members above be unable to participate, DOFAW requests that the Board delegate authority to the Chairperson to appoint alternates or recommend that the committee be reduced by one member should the need arise.

RECOMMENDATIONS:

That the Board:

- 1) Approves the use of:
  - a. A competitive sealed proposal process for a solicitation for the construction of 18 miles of ungulate proof fence on Mauna Kea to protect Palila Critical Habitat.
  - b. An evaluation committee comprised of the individuals identified above to evaluate and select the competitive sealed proposal that is most advantageous to the state.
- 2) Delegates authority to the Chairperson to:
  - a. Issue the RFP.
  - b. Award and execute a contract for goods and services, subject to the availability of funds and review and approval by the Department of the Attorney General.
  - c. Appoint evaluation committee alternates or recommend that the committee be reduced by one member should the need arise.

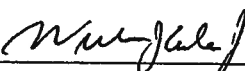
Respectfully submitted,



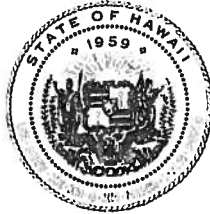
for PAUL J. CONRY,  
Administrator

Attachments

APPROVED FOR SUBMITTAL:

  
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William J. Aila, Jr., Chairperson  
Board of Land and Natural Resources

NEIL ABERCROMBIE  
GOVERNOR OF HAWAII



**STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES**

POST OFFICE BOX 621  
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December 27, 2010

WILLIAM J. AILA, JR.  
INTERIM CHAIRPERSON  
BOARD OF LAND AND NATURAL RESOURCES  
COMMISSION ON WATER RESOURCE MANAGEMENT

GUY H. KAULUKUKUI  
INTERIM FIRST DEPUTY

WILLIAM M. TAM  
INTERIM DEPUTY DIRECTOR - WATER

AQUATIC RESOURCES  
BOATING AND OCEAN RECREATION  
BUREAU OF CONVEYANCES  
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ENGINEERING  
FORESTRY AND WILDLIFE  
HISTORIC PRESERVATION  
KAIKOHAWI ISLAND RESERVE COMMISSION  
LAND  
STATE PARKS

**DECLARATION OF EXEMPTION**

From the preparation of an environmental assessment  
Under the authority of Chapter 343, HRS and Chapter 11-200, HAR

**Project Title:** Repair and replacement of Mauna Kea Forest Reserve perimeter fence: segment 2

**Project Number:** Not applicable (project is routine management)

**Project Description:** The Mauna Kea Forest Reserve provides critical habitat for the endangered Palila and supports the entire remaining population of this forest bird species. Habitat degradation from introduced ungulates are a major cause of the historic decline for this species and continue to be a threat to the native māmane (*Sophora chrysophylla*) forest habitat that is critical for Palila survival. Most of the perimeter fence designed to exclude ungulates from the forest reserve is in disrepair, resulting in continual ingress by ungulates and preventing Palila recovery. The purpose of this project is to repair and replace the fence to effectively exclude ungulates from the forest reserve. Segment 2 of the proposed fence repair and replacement is identified on the attached map.

**Consulted Parties:** U.S. Fish and Wildlife Service, and U.S. Geologic Survey, Biological Resource Discipline.

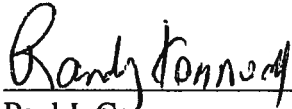
**Exemption Class:** # 1. Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing.


**Exempt Item Number:** #3. Repair and maintenance of existing DOFAW program area fences; includes boundary, enclosure, and exclosure fences, wildlife water units, checking stations, water pumps, nesting areas, aviaries and yards.

**Exempt Item Description:** Repair and replacement of segment 2 of the Mauna Kea Forest Reserve perimeter fence.

Date of Agency Exemption List: June 12, 2008

*I have considered the potential effects of the above listed project as provided by Chapter 343, HRS and Chapter 11-200 HAR. I declare that this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment under the Division of Forestry and Wildlife exemption class #1-3.*



 Paul J. Conry  
Administrator

12-28-2010

Date

Original: Agency file

Copy: Project file

Figure 1. The three fence sections that will comprise the second segment of a six foot ungulate fence to protect Palila Critical Habitat. The total length of the three segments is 18 miles. First phase will be completed by March 1, 2011. PTA and 4-foot fence are completed.

